

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2003P16583WO	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/052732	International filing date (day/month/year) 29.10.2004	Priority date (day/month/year) 31.10.2003	
International Patent Classification (IPC) or national classification and IPC H04L12/14			
<p>Applicant SIEMENS AKTIENGESELLSCHAFT</p>			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 5 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>			

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/052732

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:

pages 1, 3-13 as originally filed/furnished 30.08.2005 with letter
 pages* 2, 2a received by this Authority on of 26.08.2005
 pages* _____ received by this Authority on _____

the claims:

nos. _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19 30.08.2005 with letter
 nos.* 1-16 received by this Authority on of 26.08.2005
 nos.* _____ received by this Authority on _____

the drawings:

sheets 1/1 as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/052732

Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	1–16	YES
	Claims		NO
Inventive step (IS)	Claims	1–16	YES
	Claims		NO
Industrial applicability (IA)	Claims	1–16	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1. The subject matter of claim 1 is novel and inventive (PCT Article 33(2) and 33(3)).
- 1.1 Claim 1 relates to a process for transmitting data between a first and a second computer.

This type of process is known from **WO 03/055220 (D1)**. In the known process, quality-reducing events which lead to a degradation of the quality of the transmitted data are sensed and protocolled. The first computer is a server and the second computer a client.
- 1.2 Claim 1 differs from **D1** in that some of the quality-reducing events are sensed at the client and announced to the server by means of an acknowledgement message. Some of the quality-reducing events are sensed in the server.
- 1.3 The problem addressed is that of preventing abusive manipulations at the client. The problem is solved by the above-mentioned differentiating features because the server itself senses the

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/052732

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

events and can ascertain, on the basis of the acknowledgement message, whether such events have actually occurred.

1.4 This procedure is not suggested by the prior art.

Aside from the fact that **D1** is directed to billing and not to the prevention of abusive manipulations at the client, it proceeds from the sensing of quality-reducing events at the server. That document discloses the sensing of quality-reducing events by detection of watermarks. Since the watermarks are first added to the data by the server, their detection at the server makes no sense.

US-A1-2003/120773 does not disclose the acknowledgement of the sensed events to the first computer. Nor does it describe the transmission from a server to a client, but rather a symmetrical transmission between computers having equal rights. The events are sensed by each computer and announced to a central unit. The use of a central unit and of computers having equal rights leads away from an acknowledgement. The invention in **US-B1-6 449 588** is developed along similar lines.

US-A1-2002/065864 mentions in general terms that QoS indications are used for billing. It does not discuss how quality-reducing events are sensed and announced.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/052732

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2. The above observation also applies to claims 14 and 16, which correspond to claim 1, and to the dependent claims.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/052732

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1. Claim 1 should have been drafted in the two-part form (PCT Rule 6.3(b)). The features in lines 3-11 are known from **D1**.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/052732

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. The expression "in particular" in claim 6 raises doubts about the scope of protection because it is unclear whether the features that follow this expression belong to the scope of protection or not (PCT Article 6).